

Update: Child Protective Proceedings Benchbook (Revised Edition)

CHAPTER 11

Common Evidentiary Issues in Child Protective Proceedings

11.9 “Other Acts” Evidence

B. Evidence of Other Crimes, Wrongs, or Acts

Insert the following text on page 288, immediately before the case summary for *People v Daoust*:

The Michigan Supreme Court reversed. *People v Knox*, 469 Mich 502 (2004). The Michigan Supreme Court stated:

“Although we agree with the Court of Appeals majority’s assessment that this matter should be analyzed from the standpoint of whether admission of the contested evidence discussed above constituted plain error affecting defendant’s substantial rights, we agree with the dissenting judge that plain error requiring reversal did, in fact, occur.” *Id.* at 508.

The court concluded that evidence of the defendant’s anger during arguments with the victim’s mother was irrelevant to the issue of whether defendant committed the charged acts. The defendant’s actions during his arguments with the victim’s mother and the acts that caused the victim’s death were entirely dissimilar. Although the evidence of the victim’s prior injuries was relevant to prove that the fatal injuries were not accidental, there was no evidence that defendant committed the past abuse. Finally, the evidence of the victim’s mother’s “good character” “improperly undermined defendant’s credibility.” *Id.* at 512-514. Thus, all of the challenged evidence was admitted improperly to show defendant’s bad character and propensity to commit the charged acts. The Court stated:

“The improper admission of the evidence of [the victim’s mother’s] good character, like the admission of the evidence of

defendant's anger problems and the improper use of the evidence regarding [the victim's] prior injuries, created far too great a risk of affecting the outcome of the case, given the absence of any direct evidence that defendant committed the acts that resulted in [the victim's] death. Consequently, we reverse the judgment of the Court of Appeals and remand this case to the circuit court for a new trial." *Id.* at 514-515.